

REMARKS

Claims 17, 18, 20, 21, and new claim 22 are pending in this application.

Independent claim 17 has been amended to delete the ranges recited for the molecular weight distribution ( $M_w/M_n$ ) and the  $I_{10}/I_2$  ratio, with respect to the copolymer in the fifth layer, formed by polymerization reaction in the presence of a single site catalyst. These ranges are instead now recited in new claim 22.

Independent claim 17 has also been amended to recite that the fifth layer of the claimed multilayer polymeric film comprises a vinylidene chloride copolymer that is formed by a polymerization reaction in the presence of a single site catalyst. Support is found in the specification of related U.S. Application Serial No. 08/082,226, which has been incorporated by reference into the present specification. See page 11, lines 23-25 of the present specification. Also see the supporting disclosure in the specification of U.S. Application Serial No. 08/082,226, for example, at page 11, lines 1-4; page 12, lines 4-12; and originally filed claims 5, 6, 39, and 40.

The amendments add no new matter.

**The Rejection of Claims 17, 18, 20, and 21**

Claims 17, 18, 20, and 21 have been rejected as being unpatentable under *res judicata* and *collateral estoppel*, in view of Interference No. 105,092 (decided September 16, 2005), involving related U.S. Patent No. 6,437,064, which issued from the above-mentioned U.S. Application Serial No. 08/082,226. Applicants respectfully traverse this rejection insofar as it applies to claims 17, 18, 20, and 21 as now amended, as well as new claim 22.

The pending claims are directed multilayer polymeric films comprising five layers. The fifth layer comprises a polymer formed by polymerization with a single site catalyst. To advance prosecution, independent claim 17 (and its dependent claims 18, 20, and 21), have been amended

to recite that this polymer in the fifth layer comprises a vinylidene chloride copolymer. The present specification and the specification of related U.S. Application Serial No. 08/082,226 (incorporated by reference into the present specification) describe this and other types of polymers formed by polymerization with a single site catalyst and which may be used in film layers.

The subject matter now recited in amended claims 17, 18, 20, and 21 corresponds to that of claims 4 and 20 of U.S. Patent No. 6,437,064. These claims were separately patentable over the count lost in Interference No. 105,092. The invention of amended claims 17, 18, 20, and 21 is therefore also patentable. New claim 22 depends from claim 17 and is therefore patentable for at least the same reasons.

Applicants further note that a Terminal Disclaimer over U.S. Patent No. 6,437,064 was already filed February 16, 2005, thereby mooting any obviousness-type double patenting rejections.

Reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, all pending claims of this application are believed to be in condition for allowance. A written indication of the same is respectfully requested. This response is believed to completely address all of the substantive issues raised in the Office Action mailed January 10, 2007.

Respectfully submitted,  
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